

CHARTER COMMISSION

January 8, 2003

5:00 PM

Chairman Dykstra called the meeting to order.

The Clerk called the roll.

Present: Leona Dykstra, Bob Shaw, Donna Soucy, Brad Cook, Patrick Duffy,
Keith Hirschmann, Leo Pepino, Nancy Tessier, Michael Wihby

Messrs: Deputy Solicitor Arnold

Chairman Dykstra addressed Item 3 on the agenda:

Minutes of meetings held December 4 and December 18, 2002.

On motion of Commissioner Shaw, duly seconded by Commissioner Duffy, it was voted to accept the December 4 and December 8, 2002 minutes as presented.

Chairman Dykstra addressed Item 4 of the agenda:

Communication from Deputy City Clerk Johnson advising of the timeline for reporting previously requested by the Commission.

Chairman Dykstra stated you all have a copy of that. I think a lot of it is under state statute also. It is all. The clerk's suggestion is to hold a public hearing once we get the contents and have the charter put together for April 30. Is that agreeable to this commission to set up that for April 30?

Commissioner Cook asked if that was school vacation week.

After a check of calendars, Chairman Dykstra noted that April 30 was a Wednesday, stating they would probably have the hearing at 5 o'clock and it would probably be here.

Commissioner Hirschmann noted that's kind of early for a public hearing.

Chairman Dykstra stated it's not, not when you think that a lot of people would come that probably don't work. And it can continue. I mean just to start it at that time.

Commissioner Cook stated I think that's the week after school vacation but he wasn't sure.

Chairman Dykstra noted that it's wintertime. We talked about it...

Commissioner Tessier stated that that's the spring school vacation. The winter one is at the end of February.

Chairman Dykstra wondered that even if it is vacation week, is that going to be a problem?

Commissioner Cook noted that people would be away.

Deputy Clerk Johnson stated that we can check it. The only reason I suggested it was that you have your preliminary report that's due to be presented to the public, and the thought process was that if you present it to the public, one of the best ways to do that sometimes is through that public hearing process. Then you can get feedback if you only have a few weeks after that to put the final report together, so if there was something there that you really wanted to address, it would give you a little bit of time to work on it. It could be the last week of April, the first week of May. It can be whatever date you want. You don't even need to hold another public hearing so long as the information is posted publicly and you invite people to submit written comments or something like that.

Chairman Dykstra and Commissioner Cook expressed the desire to hold another public hearing.

Deputy Clerk Johnson noted that her sense was the Commission wanted to hold another public hearing after. That would give you an opportunity to get feedback and then still work on whatever feedback you get if there was something that you want to address.

Chairman Dykstra asked if May 7 on a Wednesday would be better for everyone.

Commissioner Cook responded that it purely depends on whether school vacation week is that week or not. If school vacation week is the week of the 21st, which seems to me to be early.

Commissioner Shaw wondered if the item could be tabled.

Deputy Clerk Johnson noted that you can deal with that at the next meeting.

Chairman Dykstra stated that everything here is basically state statute, so the only thing we have to do is come up with that public hearing, so we can kind of think about it, so we can get all the commission members there and the chambers are open so we can get in the door too.

Deputy Clerk Johnson asked if there were any other questions that anybody had.

Chairman Dykstra stated that she had talked to Carol the other day about when it would go on the ballot, whether it would be September or November, so you can probably explain a little about that.

Deputy Clerk Johnson stated that it would be the November election. I've indicated that on the memo. If in fact you have something that you submit as a revised charter, the Board of Mayor and Aldermen have no choice. It says "shall" refer it to the ballot, and the next regular election would be considered the November election under the statutes. We've reviewed that both with the Solicitor's office and the Secretary of State's office.

Commissioner Hirschmann asked if the primary doesn't count.

Deputy Clerk Johnson responded the primary would not be considered a regular election because you are not electing people. You're actually nominating. Special election is not allowed. It says regular in the statute. It has to be a regular election.

Chairman Dykstra asked if there was anything else you would like to ask Carol about the process or the procedure we just put forth. Okay. Very good. We'll move on.

Deputy Clerk Johnson asked if the Commission wanted to set that deadline for the 23rd for the contents so you allow time.

Commissioner Duffy moved that the deadline be April 23 to have everything together as suggested by the Clerk. Commissioner Tessier seconded the motion.

Deputy Clerk Johnson noted that the idea is for you to set some kind of internal deadline for the commissioners themselves so that you have a document that's being finally typed and make sure all your typos are out before it hits public. The deadline for that is that Sunday, so you need to be sure that somebody dots your "i's" and crosses your "t's" on everything by that time.

Chairman Dykstra stated you could have the hearing anytime you choose

Deputy Clerk Johnson stated we don't want any typos going out in the document. The statutory deadline is Sunday, May 4th. You also have a holiday in between there of some kind. We're not going to be distributing it to the public on Sunday, the fourth, so it would have to be the Friday before that you would have to distribute it out to the public. I figured if the finals were determined by the 23rd, and I think that was the Wednesday I was picking because Wednesdays are your evenings, then that gave us a couple of days internally in the Clerk's office to make sure there are no spelling errors or typographical stuff that needs to be taken care of at the last minute for that preliminary document that you're going to be submitting out to the public.

Chairman Dykstra asked any other questions on that?

Commissioner Soucy stated following the public hearing we would then be able to make further revisions.

Deputy Clerk Johnson noted that under the law, this would be your preliminary report that you have to have out there, and then after that, you can still review that report further and make changes and then your final report was due—we have to also submit that by the way to the AG's office.

Chairman Dykstra noted that there really isn't that much time when you think of it. It moves very quickly.

Deputy Clerk Johnson noted that within ten days of the Commission doing the report, we have to submit it off. They have I think 14 days to respond to us in writing if there's a problem. The final report deadline is June 18, so presumably within a couple of weeks you would hear back from the Secretary of State and the AG's office and D.R.A. if there was a problem. It would give you time to hold your public hearing somewhere in that time so you have your feedback there, and then you're only going to have a few weeks left at that point to pretty much close

up your business to get a final report put out for the 18th. When the Attorney General's office reviews it, or Secretary of State's, if they find something, they have to submit to you in writing what it is they found that is inconsistent which allows you that opportunity to remove that portion obviously so that it can still go out to the ballot. If you chose not to do anything, it could not go to the ballot which is why I mention inconsistencies under the law.

There being no further discussion, Chairman Dykstra called for a vote. The motion to accept the April 23 deadline carried unanimously.

Chairman Dykstra addressed Item 5 of the agenda advising that the Commission shall initiate review of each Section of the current Charter.

Commissioner Pepino moved that Item 5 on today's Commission agenda that we review sections of the current charter be substituted by the following—that the commission will use as its base for review the charter prior to the current charter, known as the 1982 Charter, making amendments as desired by the commission and submit the final charter as amended following the time line as presented today by the City Clerk. If my motion is seconded, I would like to speak on my motion.

Commissioner Shaw seconded the motion.

Commissioner Pepino stated that he has looked at the old charter for the past six years. I've watched the aldermen rattle with it. They're always trying to amend it. They're always trying to change it. It seems as though the present charter is nothing but problems. Now, during the public review, the first one we had, there were many members of the public that came up and said something that was in the old charter, so it almost seems like they're referring to the old charter instead of the new charter. So what I would like to do is just say...and another thing now, every time a charter commission gets together, it seems as though they rewrite the charter. Now I don't know if any of you have ever been to a Constitutional Convention for the state. They hold a Constitutional Convention. We get elected. I was up there. We sit down and we have a problem with one section of the Constitution. They do not call them bills. They call them resolutions. We put a resolution into that. It goes to the committee. It's fought on the floor.

Commissioner Cook has a problem, he puts a resolution in. And that's what we did. We did not read the Constitution. We did not review every section of it. It was every person like I said at the first meeting we had, we were all here for something. That comes from the state. We should submit what we're concerned about. Also, what the public is concerned about. Not sit and review the charter word for word for word for word. Many of the changes I want to see, this new charter took out of the old charter. I'd like to see the old charter reviewed instead of this one. That's all I have to say.

Commissioner Cook noted two points on that. The Charter that's in effect, and I'm not sure going through this charter and comparing it to the old one or going through that one and comparing it to this one, this is the charter that we are operating under, that it the Constitution of the city, not the prior one. This would have to be the one that was revised or reviewed. To review the old one, you can do what Commissioner Pepino says, by comparing what we had before when we go through this one, but this is the one that we have. If we were to do that, I think we'd be perhaps missing what's in this one that people may want to look at. You gave us a homework assignment which I think most of us did which was to go to this charter, go through the charter which I did for an hour and a half last night even though I thought I knew what was in it, to indicate what sections are of concern. If we go through these sections and we identify what's of concern and people say perforce we like what was in the one prior better, we'll look at that. But not using this charter which is the charter which we're the charter revision commission and this is the charter seems to me to be not doing our jobs very frankly. It presumes a result in other words.

Commissioner Pepino responded that Attorney Arnold had just mentioned to him that it would be a matter of procedure. If we wanted to do this one, we could do this one or if we wanted to do the old one, we could do the old one.

Chairman Dykstra stated that meaning to say, it wouldn't be illegal.

Commissioner Cook responded that he didn't say it would be illegal. I said it would be inappropriate.

Chairman Dykstra asked whether we would be using this as a working document. Is that what it would be?

Commissioner Cook stated that this is the charter. This is a charter revision commission. If we use a document other than this for our review and things are in here that weren't in the prior one, very frankly, we wouldn't be reviewing this charter.

Chairman Dykstra asked why you wouldn't be able to put something from the current charter into this one.

Commissioner Cook responded by asking why you would review an alternative that isn't the charter. Why would you do that?

Chairman Dykstra stated that she was going to address you in a second. The thing is that the charter is the charter. We have to address every section, every section of this charter. We had talked about addressing it. We're going to be looking at the charter. I don't see a problem in it if our City Solicitor doesn't have a problem with it.

Commissioner Cook responded that I don't think he said that...he asked him if it was legal, and he said it was legal. He didn't say he had a problem or didn't have a problem.

Chairman Dykstra stated that he said we could use any document, so that's why we're discussing this whole thing here.

Commissioner Shaw stated that he would like to start with this as a platform, the one that we had in 1987 which was really the 82 charter. It might have been amended slightly in between. From this, we will make the modifications that we as commissioners, from what we hear from the public and what we discuss amongst ourselves, and we make changes to that 1982 Charter to bring it into conformity with what the majority of this committee would like to do. By voting for the old one as the platform, what you are doing is going back to the concept of 12 aldermen, the partisan elections. From that, somebody can make a motion that I like x, you know, nonpartisan elections, and we can vote on that. It seems to me that the public that came before us is not satisfied, even though there was a minority of votes in on it. A very small number of people turned out for this, for the Charter Commission itself. You have to start somewhere, and rather than subtract, which is the one we're on, I would say that we add to the one that we had, and that we submit to the voters this here as the charter that we would like as we have amended it. We won't say it's the 82. We'll say this is what the Charter Commission believes should be the charter. It will really be the 2003 charter. That's where we start. That's the only difference. You have to make up your mind. Do you wish to start with something that people feel is defectively made, the new one?

Commissioner Cook interjected, stating that presumes a fact.

Chairman Dykstra stated okay, just a moment and recognized Commissioner Duffy who yielded to Commissioner Soucy.

Commissioner Soucy stated that she believed the final report that will be submitted to the voters will be an amendment of the present charter. So even if we were to use the previous charter as a starting point, everything from the previous charter has to amend what is now in existence. Our job is to submit a report that

amends what's in existence. As we're going through the document, if there are portions of the old charter that we want to bring back, then I think it would be appropriate to amend the existing document, but I think we have to work with what's in place. If we worked with the old document—Commissioner Shaw just said that presumes that we accept everything that's in the old document—and I don't think that's the case. I think we have to work with what we have, and we can certainly adopt many provisions from the previous charter if we thought they were more effective or worked better, but it doesn't seem to make sense to me to start off by saying we completely amend what's there with what was there before, and then we'll take pieces from the previous charter. It just seems to be the reverse.

Commissioner Duffy stated that notwithstanding the concerns that apparently exist with the existing charter and again I don't see it as being suggested here this evening an overwhelming concern about the existing charter, I sense that we had an election for this Charter Commission. Again, it was a very small vote that first of all asked to have a charter review and secondly for those that actually voted for this particular review. Quite honestly, my understanding is that we were to review the existing charter. We can do whatever research we want in terms of previous charters as suggested by Commissioner Soucy, but to suggest that we're going to start with the quote old charter as we're referring to it as effective January 1, 1983 through June 30, 1997. If that's considered the old charter, to think that we're going to ignore what was done at the last Charter Commission, I don't believe that that's what we were asked to do by the voters. I quite honestly feel that if we're going to get through this thing at all in the time frame that we're talking about, we need to start some place, and the basis is the existing charter.

Commissioner Tessier supported what Commissioner Duffy was saying. A small election asked us to review the charter; the present charter that we're working under is my understanding. I think we are representing that group of people. We're not representing ourselves. I feel I'm representing the group that said let's look at the charter. Obviously there are things in the charter that we question, and the information from the past charters can be brought in but I think our initial task was to review the charter that we are presently working under, and I feel more comfortable starting with that.

Commissioner Hirschmann stated that predominance of the people that spoke at the public hearing reflected their views of the previous charter. This strategy of going back to the previous charter has a basis. The public that came out and spoke, they talked about all the things that were in the 1983 charter. They talked about the 12 aldermen. They talked about partisan elections. They talked about tax caps. I held my notes from that public hearing, and the fallback budget, the way that the budgeting is done for the city, isn't a favorable idea right now. The

old budget plan was actually better. There are a lot of ideas in the old charter that if we use that as a foundation and we modified it and we probably will use some of the things from the 97 charter, I don't know what will survive, but there are a lot of things that won't survive. Now, the 83 charter isn't perfect because I don't think that department heads should have terms. I don't believe in that. I'm not quite sold on the commissions on what we should do with that. For the most part, I really do believe—I have served as an alderman under both charters—the previous charter seemed to me a lot more palatable for the public and for elected officials. I'm going to support the motion that's on the floor.

Commissioner Shaw commented that he wanted to answer the concerns of Commissioner Soucy stating I don't think we're here to amend the charter. I thought we're here to produce a charter. We would either say to the citizens the charter as presently constituted is all right or we're going to put sections in the new charter. That's the thought that you have, but my thought is that that's a bad platform to build a charter on. There are so many things wrong with the new charter, based on what people testified. I believe we should have a different platform.

Chairman Dykstra stated that what had gone to the voters was to have a charter revision, review okay.

Commissioner Pepino expressed his concern stating at our first meeting, I asked a question. I said, we're all here for a reason or reasons, parts we like in the charter, parts we do not like. We're all here for something. When I asked to have each commissioner bring in their concerns, they more or less were referred to let's hear from the public. They put that off. I wasn't here the last meeting, but I went through the minutes, and it was in the minutes where the commissioners should bring in their concerns. I had brought that in two or three meetings ago because that's the way the Constitutional Convention is run. Not take the Constitution and look at it and read every part of it. What problems do you see? What problems do the public want? That's what you do. I tried that. I didn't say it was the state way, the first way, but I mentioned that and that died. And now we're back talking about the same thing again. If you go back to the old charter, I worked with the old charter and the charter before that. I'll be truthful with you. It might hurt somebody's feelings. If I was an alderman today and I had to work with this thing, I listen to the aldermen every night. It's about this. It's about that. Ask the City Solicitor. Ask this. Ask that. They still have language in there that has to be interpreted by an attorney. Those that were there on the last commission, if you remember, one of the statements I made to the commission, I said what I would like to see is when this charter is written, for the average person reads this once and he understands it, not two or three times, once. That didn't happen. I sat before you people two or three times again, and I hollered for aldermen at large.

That was the way to go. But after seeing it, when I hear an alderman say on TV when I get a call from somebody and start to pick up the phone and I call the alderman and hang up. I mean that's what an alderman at large is. An alderman at large is supposed to do something. Now, I'm going to love this one. We have a couple of attorneys here. You've been to the Supreme Court. I have read their decisions. I remember one decision was on Article 28A. It came out of the Constitutional Convention. We all hear our speeches for it, and this is what the Supreme Court said. There's nothing to interpret here. These people are all lay people. What they say is what they mean, so therefore they win. The Attorney General tried to interpret it. There was nothing to interpret there, but if we're going to put a charter together, we have to say to the City Solicitor we'd like to do this in our charter, can we do this? He comes back and says no you can't. This is not right. When you read something, you understand it. You don't read it four or five times. When you've got to read it four or five times, you're trying to interpret it. It's lawyer's language. One lawyer says yes. One says no. One says yes, one says no. It goes to the court, and the court says. I was before one judge one time, and the judge said to the lawyer, "Are you interpreting this RSA?" The lawyer said, "Yes, I am." He said, "You sit down, young fellow. We interpret. You give opinions." That's where I'm coming from.

Chairman Dykstra, before calling on Commissioner Cook, asked Deputy Clerk Johnson for a clarification.

Deputy Clerk Johnson stated there was a comment as to whether or not the voters had voted in terms of revision or reviewing the charter. The question under law that the voters voted on was, "Shall a Charter Commission be established for the purpose of revising the municipal charter or establishing a new municipal charter?" In reality, as was stated, it's a procedural question. I take no opinion either way. Your final report "...shall include the full text and explanation of the proposed new charter or charter revision...". So again, it is allowing in essence you to write a whole new charter or to just revise the current charter as you see fit.

Commissioner Cook stated that he was confused a little bit by Mr. Pepino's remarks. If the Constitutional Convention model is a good model, and Constitutional Conventions haven't been notorious for getting anything done of late, but if that's a good model, they bring in things that they want to change in the existing Constitution. There's never been a charter of the city of Manchester or any other document that didn't need interpretation by lawyers because when people do things, they're either allowed under whatever document you're dealing with or they're not. Certainly there are times when things are obvious in a document that don't need interpretation that people assert inconsistent interpretations. But for us to say—this is a fundamental question—that the document that we're reviewing and revising is a document not in effect, the issues

still come up. I came in here with red lines under a whole bunch of sections that I could have put under the old charter or the new charter. The issues become the same. Is what we're doing working? This charter is, as you know I think far better than the prior charter, but the question has arisen. Mr. Hirschmann had a whole laundry list of things and we did the last time when you weren't here unfortunately talk about what each of us wanted to do when we get here. For us to raise the issues we think need to be fixed which is what I understood you to mean is the way the Constitutional Convention does or add things that aren't here at all—they don't need to be fixed but they're not in the charter at all, they're new ideas and some of those have been posited --on a document that isn't in effect I don't think gets us any place. We have to go to this charter to figure out what we're revising whether or not we start with just a list of topics which we could do from your list. We could do from my list. We could do from any list.

Commissioner Hirschmann interjected that was not what we agreed to. We agreed to review from a certain point from the beginning to the end.

Commissioner Cook stated that we agreed to review this charter.

Commissioner Hirschmann stated no, we didn't.

Commissioner Cook responded, yes, we did. You said at the first meeting, we should review everything that's in the charter. This is the charter.

Commissioner Hirschmann responded that we're going to write a new charter, sir, one that's better than this one.

Chairman Dykstra stopped the debate, recognizing Commissioner Pepino who noted that the Constitutional Convention put 15 questions on the ballot. 28A, unfunded mandates, came from that. My name was right on top of that one. Funding of the pensions was ours, and quite a few more. All the kinds of different things in the convention, we put them on. The only people up there that had their own agenda was legislators that couldn't get any bills passed which I agree with. The main thing on the judges and the whole court system and the whole bunch that defended that was attorneys. That's how we got nothing done on the court system.

Commissioner Pepino moved the question and called for a roll call.

Deputy Clerk Johnson restated the motion, that Item 5 on today's agenda be substituted by the following, "That the commission will use as its base for review the charter prior to the current charter, known as the 1982 charter, making amendments as desired by the commission and submit the final charter as amended following the timeline presented today by the City Clerk."

A roll call vote was taken. Commissioners Shaw, Hirschmann, Pepino, Wihby, and Dykstra voted in favor. Commissioners Soucy, Cook, Duffy, and Tessier were recorded in opposition. The motion carried.

Deputy Clerk Johnson noted that Chairman Dykstra has indicated her desire to vote on items whether or not a tie exists. Chairman Dykstra stated that she plans to vote on everything.

Chairman Dykstra stated that she had comments under the new charter too. We've got the old one. Majority rules. It doesn't mean you can't incorporate something that's in the new charter, in the old charter. The charter is going to be the charter that we're going to bring to the people. Everything is on the table. Everything is out there, and I think that's going to be fair. Right now we probably should start. We can go to the beginning. I think that's a good way to start, and the first part of it basically is powers of the Board of Mayor and Aldermen. If there's anyone else who wants to jump in there and has a question on any of it, who wants to make a change in any part of this charter, certainly feel free to bring a motion forward.

Commissioner Cook posed a procedural question. I thought we were all going to come in here today, having gone through the charter which we did and you can do this by going through the old charter or the new charter, we were going to list what our topics were of concern because then we'd know what we needed looked into, again that whole question about research and stuff. Then we were going to hear from the people, and then we were going to get into revisions. You just said you can change stuff today, and I didn't think we were going to start doing that.

Chairman Dykstra stated that we're going to be discussing things, and everything is open.

Commissioner Cook stated he thought we were going to identify the topics we were going to propose.

Chairman Dykstra responded that you can identify them. You still have a right to vote at any meeting on anything. At the last meeting, people did identify topics. At the public hearing, tax cap, partisan elections, at large aldermen. A lot of people in this room—I didn't run on anything; I didn't run a campaign—but there were people in this room that were elected because they ran on a certain platform that they supported. Some people sent out they supported a tax cap. They basically were against the aldermen at large. They actually were elected because they believed in certain things. We have had a public hearing. Right now the way I see it, we're probably going to have; I would like to have another public hearing

of the people. Evidently the way it's going to work, we're going to have one once we put everything together.

Commissioner Cook noted that we have a schedule of hearings.

Chairman Dykstra stated that's department heads. That's not the public.

Commissioner Cook responded that we were going to hear from them and get all the input before we make decisions.

Chairman Dykstra stated that we can tell them what we're looking at too. They're not going to make the decisions. These are things that you brought up, department heads. My feeling is that the charter belongs to the people and I'd like to get input from the people also.

Commissioner Duffy said he couldn't quarrel with the fact that the charter belongs to the people. But I do feel that we're here this evening. I have a marked up copy of the existing charter. You're asking us now to look at a previous charter. I think in terms of both being an orderly process as well as an efficient process, we've got to have some basis on how we're going to proceed instead of jumping around looking for where people want to make some sort of change to a charter. I think we need to have an orderly process.

Chairman Dykstra responded that she had hers all marked up too. A vote was taken and I have no problem. What is the problem with starting at the beginning of this? Are you trying to tell me that I'm not going to be able to allow votes at any meeting? They have a right.

Commissioner Duffy said he has no problem starting at the beginning.

Commissioner Cook referred to what was decided the last time on how the commission was going to proceed.

Chairman Dykstra stated that we didn't even have everyone here at the last time. No vote was taken on what should be done. It was a discussion.

Commissioner Shaw agreed that we should go through it step by step. Just to read to you one of the things in here. Shall have a board of aldermen. Go to 2.02, composition of the board of aldermen. It tells us there how the board should be made up. Under what we just voted to our platform here is that we now want to present to the people for their approval that we only have 12 aldermen, one for each ward. That's what it says under that. There might be somebody here like me that thinks nine is enough, or less. There could be somebody that believes that we

should have 12 aldermen plus two more. When we reach to where we should stop and see where we're headed.

Commissioner Soucy agreed that the commission should go section by section. If we're going to start with the old charter, then let's start with the old charter and go section by section. But I think, and I don't want to put words in Commissioner Cook's mouth, but my understanding was that we weren't going to today say, okay, section one, do we like it? Yes, move on and then not go back. I didn't think we were going to take votes today. I thought we were going to discuss the areas that we will eventually make change or that we've heard raised through the public hearing initially and just have a simple discussion amongst ourselves and actually work on what the proposals are without actually voting section by section today. That was my understanding.

Chairman Dykstra stated that if in fact we felt that we were just going to have a discussion today, can I ask this board when you feel it would be appropriate to vote?

Commissioner Soucy responded that it would be after we've had input through the public hearings that we have scheduled.

Chairman Dykstra stated that you're talking about public hearings. Dealing with aldermen, I don't know what kind of input you'd need from a department head with that. Maybe some things would apply. We're always going to take things under consideration. The thing is is that if people want to vote, I don't know if I even have the right to tell this commission—I mean we're all equal, we have one vote—whether they can vote or they can't vote on what they want. A lot of people have thought about what they want but what is the appropriate time? If you're saying that we have to wait for every single hearing that we have set up here to listen to everyone, so what do we do? I mean, that's what I really can't understand, but we'll still discuss this.

Commissioner Hirschmann stated that to be orderly and functional and be able to go back when we need to, I think that we just selected our foundation which is the 83 charter just for discussion sake, so if we start from page one, from the preamble or the text and move forward. If we just look at it, if everyone agrees that the preamble is okay, then we vote to move on. If there's a majority of members that want to change the preamble, then we take a vote and we just label that item one. We don't change it today. Just like when you're doing an editorial on a book or a text, you've got to number your mistakes or your references to go back to. What we should be doing is putting numbers, or the clerk should number areas that we want to address. And we go through the whole charter and when we're done, we

have items one through sixty let's say and then we have reference points to go back and you can make a motion on item one or item sixty and be functional.

Chairman Dykstra stated that what I'm saying is that I don't have a right to tell anyone here, you can suggest what you want, but I can't tell anyone in this room, any commissioner here that they cannot vote at any time. I have no problem with what you're suggesting and I'll just carry on the meeting.

Commissioner Tessier stated that she agreed, let's go one thing at a time. But we've got an awful lot of people scheduled to come in here in the next four weeks that are going to give us a lot of input because they're people that are working this charter day every day every day. I think it would be unfair not to listen to them and hear what they say because they're going to give us some very good information. I would feel amiss if I didn't listen to them. I feel strongly that I am representing these people and they are the ones that are working the charter. I agree with Mr. Hirschmann that we should check off the things that we need to look at. We are going to agree on a lot of things, and there are things that we will come back to, but to vote on a lot of these issues I think is a little premature.

Commissioner Pepino stated that when we have our department heads come in, I don't have a problem with that. But I'll tell you one thing right now, what I want to see when these department heads come in, I want to see them come in and tell us how this charter has worked for or against their department. I do not want to see what we get in Concord. A man comes up and he testifies and you look at the man. You pick up the phone and you call the mayor's office. "Do you know so and so's up there doing this?" "He is?" That's bad for the city. I know that. Tell him. Two department heads up there, one testifying in favor of the bill, one against it. Another one up there, unfunded mandates, a department head is sitting there. He didn't even know it. You got to tell the mayor. So I don't want to see any personal reasons come in on this. I want to see what's good for the city. That's all I want to see.

Commissioner Tessier interjected that I think we all want that.

Chairman Dykstra stated that certainly if that's where we want to start, we can go through this and see how far we can get. Commissioner Shaw, did you want to address the preamble? You approve of it.

Commissioner Cook noted that both charters, the preamble reads pretty much the same.

Chairman Dykstra stated, didn't we do the preamble, I hate to say it but I think we probably did it at the end.

Commissioner Cook noted, I think you're right.

Chairman Dykstra added, we did. We worked on the preamble at the end, kind of put it together. If you want to, we don't have to vote. If you like it, everybody likes it, we can go back to it. We can move along.

Commissioner Shaw referred to page 1151 of the document presented by the City Clerk stating mentions here that the city of Manchester had a special election on the 1982 charter, and the information I just got from you is that it's not allowed. But I wonder.

Deputy Clerk Johnson stated that it's not allowed under law at this time. Those laws have been changed. We did the research.

Commissioner Cook added that municipal enabling laws all changed some time before.

Chairman Dykstra asked if the Commission wanted to start going into the Board of Mayor and Aldermen. Start there.

Deputy Clerk Johnson referred to the Preamble and after brief comments it was concurred there was no opposition to the wording presented which appeared to have been carried forward from one charter to the next.

Section 1.01 Incorporation and Section 1.02 General powers were also noted as okay with members of the Commission, those being carried forward from one charter to the next.

Chairman Dykstra moved to Article II. Board of Mayor and Aldermen.

Commissioner Soucy stated that the governing body portion [Section 2.01] is different.

Commissioner Cook stated that the difference, I believe, in 2.01, I wish I could find my comparison one. The difference in the new charter from the old charter is it said who as body acting together. One of the concerns in the new charter, and obviously we're going to have some explanation of why these things came in, but one of the concerns in the new charter and Mr. Pepino touched on it earlier was that the 12 aldermen—I don't think this has changed as an observer—but the 12 aldermen of the city believed they were many executives or mayors of their own wards. The concern we had was that the aldermen, because the state law says governing bodies have to act as a body, not as independent executive officers, and

so one of the things we inserted into the new charter in several places and we'll get to them as we get through obviously was that they were to act as a body and as a body they were the board of directors. That didn't mean they couldn't go, if their constituent had a problem, in front of a board, they couldn't go and say my constituent has a problem. The issue that you referenced about the at large aldermen, the first time the at large aldermen took office and somebody called them from a ward and they tried to address the problem, the ward alderman called up and said, "Why are you dealing with a problem in my ward? That's mine." And that's why it says in the new charter acting together and frankly I think we ought to retain the language there because the board of aldermen should act together as a body and not as a bunch of independent actors. That's what we were trying to do.

Commissioner Pepino stated that if you recall when you were on the old Charter Commission, I appeared before you, and I asked for these aldermen at large. And the reason I gave to you, the Charter Commission at that time, was you have lazy aldermen. They don't take care of their constituents. And the person will have another person to call. All right. So you elected your aldermen at large the first time. And there again, I'm not sure if you're aware of this. Over the weekend, I had dozens of calls on snow removal. So I have nobody to call. When you elected the first alderman at large, I used to call one of them, and a day later or two days later, it was done. That alderman lost. A new one came in. And right on TV, right on the phone, Dan O'Neil sits right there and said, "Well, when anybody calls me, I pick up the phone and I call the alderman."

Commissioner Soucy called a point of order. With all due respect Commissioner, I don't think we're talking about the individuals holding office. I think we're talking about the structure and the offices.

Commissioner Pepino responded that's not what Brad Cook just said.

Commissioner Cook responded, oh no, I didn't mention anybody's name.

Chairman Dykstra stated we're going to have to move a little quicker than this.

Section 2.01 The governing body was marked Item #1 to return to.

Chairman Dykstra moved on to Section 2.02. Let's discuss the composition and see where we stand there.

Commissioner Soucy stated that in regard to the composition, the issue is pretty clearly defined and we can label that as number two. The issue is whether or not we have aldermen at large.

Commissioner Cook stated that the issue is larger than that because you have two issues. You have how many are we going to have regardless of whether we have at large or not and you have are going to have at large at all. So that's point two.

Deputy Clerk Johnson noted the issues as Items #2A and #2B.

Commissioner Cook stated that also in 2.02, he would like to consider the length of terms and whether they should be staggered or not. Someplace in there the term of alderman which is in the new charter in 2.02 (c, others noted), says it's a two year term. I think that deserves attention. Should they be four? Should they be two? Should they all be elected at the same time? Should they be staggered?

Commissioner Shaw stated that is the type of thing...you wanted to review the whole thing without stopping...the nine of us deciding, nine is a good number to move on.

Chairman Dykstra stated the thing is, I don't know. That's up to you. The thing is if we have 12 or 14 aldermen, a lot of people here kind of know where a lot of people stand on that issue. The thing is if you don't decide on how many aldermen you want, 12 or 14, then when you go through and you're discussing quorums and you're discussing this and that, you're going to have to kind of address it in a way as if there's 12 or as if there's 14.

Commissioner Cook noted that when you make that decision as to what the number is, you can change those other things in about a minute.

Section 2.02 Composition of the Board of aldermen was marked as follows:

- Item #2A issue of number of aldermen

- Item #2B issue when At-Large aldermen or not

- Item #2C issue of terms

Commissioner Shaw stated he thought the commission had voted to have 12 aldermen. That's what I thought we did, one for each ward. We took the vote at the beginning. We decided that we would have 12 aldermen, one for each ward. That's the platform we're building on.

Commissioner Cook stated that's not what we did.

Commissioner Shaw said we took this as the platform.

Chairman Dykstra stated this is a working document. We're using that as the working document.

Commissioner Cook stated that you're using that as where you start. I said an issue that I think we should consider is the length of the term as well as the number. I have no problem with 12 aldermen if six of them are at large, but I don't want to have 12 aldermen if they're all from wards.

Commissioner Dykstra stated that now we know where everybody stands. We just keep this going. Evidently there's people that want 12 and some want 14 and some want 9.

Commissioner Shaw stated he was ready to stop. I thought that's what we should do. Stop. Right now because we can't go any further until we decide on how many aldermen. That's what I thought, and therefore motions would be made.

Chairman Dykstra stated, well, are you making a motion.

Commissioner Shaw moved that there would be 12 aldermen, one from each of the several wards.

Commissioner Pepino seconded the motion.

Commissioner Cook stated that this is a hijacking, if I might say.

Chairman Dykstra asked how you could call it a hijacking.

Commissioner Cook responded that this isn't the procedure we just said we were going to do, going through the entire charter and coming up with ideas as Mr. Hirschmann said.

Commissioner Shaw asked if he could withdraw his motion. I'd rather satisfy Brad. It caused dissension.

Chairman Dykstra responded certainly.

Commissioner Pepino withdrew his second.

Commissioner Hirschmann stated a point of order as to schedule. Out of respect to everybody, everybody did say we're in the discovery phase. Now we've picked our basis to where we're starting from, and we're starting. We've got two points of contention out of three things already, so I think we're moving along orderly but we do have to hear from the other bodies of people and we are definitely going to come back to this. And then there will be the motions and the heated and passionate discussions and all that, so I think that we're doing okay.

Deputy Clerk Johnson noted that for clarification, Section 2.02 noted as Item #2A, the number of aldermen; Item #2B at large or not; and Item #2C terms. So that will be item 2 as broken into A, B, and C to take up at another time.

Chairman Dykstra asked if commissioners wished to look at, change, or have any input on section 2.03, powers and duties under general and special laws, powers of selectmen.

Commissioner Soucy asked a question. There was an issue raised earlier by Carol that the state statutes were revised between the time that this previous charter which we're using as our primary document to review was written and the new charter. Therefore, are there items in this document that we're using now that are contrary to what is in state statute?

Deputy Clerk Johnson responded that the only statutes she was referring to were relative to the election process. That's under 49-B:4. You certainly can have the City Solicitor look at pieces as you go along as to whether or not they are or aren't. That was the whole purpose of having the solicitor be part of the process, and Tom's here, he can speak for himself. The statute I was referring to only in terms of the election, and it was in response to Commissioner Shaw's question.

Commissioner Soucy stated that it was also her understanding that there had been a number of changes. There are many things existing in this document that we're working on that have since changed.

Commissioner Shaw stated that there are two parts of the 1997 charter that are in error. The courts have ruled that you can't have term limits. That's the first one. The second one is that all the zoning boundaries which were put into this new 97 charter...

Commissioner Cook interjected to state that you mean the ward boundaries. The ward boundaries have all been changed.

Commissioner Shaw stated that ward boundaries were never in the previous charter but now suddenly they're in the 97 charter.

Chairman Dykstra stated that we're going to discuss this. We're going to go through it. There's going to be things we're going to do here that are probably not right. If they're not, we're going to be told that by the City Solicitor, and we're going to have to change them. We can't stop for every little thing. Is this right or is this wrong? We have to go with what we think. We can't question if everything is legal or not. If it's not, certainly it's not going to happen. That's

why the City Solicitor is involved. Is there anything you want to address within this next section, 2.03?

Commissioner Cook stated that when we discuss the structure of government, I think the reason the new one, I'm not sure how it works—how it works is a whole lot different, but the new one as you know when we did it is much more precise because we made it clear as we discussed before that the board of aldermen acting as a body were the policy making board of directors, and the old one homogenized it because the old charter didn't say for whatever reason that the mayor was the chief executive of the city and we made that clear. And so the new one's there for a reason that relates to other things, so I think we are going to need to discuss whether the old one does what we want to do or doesn't do it. I'm not sure substantively it makes a whole lot of difference, but I think structurally it does.

Commissioner Hirschmann said to label it three.

Deputy Clerk Johnson noted that 2.03 is item number three to return to.

Commissioner Cook stated the new charter is better than the old one.

Chairman Dykstra stated that we would return to that. Next is what, 2.04, delegation and authority of functions. Anybody have a major problem with that?

Commissioner Duffy stated that, those of us again that like to proceed on an orderly basis to better understand what's in the old versus the new, the new has language in it, item 2.04B, that is not in 2.04 under the old charter. That needs to be discussed because it's fairly significant language.

Deputy Clerk Johnson marked 2.04 Delegation of authority and functions as Item #4 for the purpose of discussion.

Chairman Dykstra addressed vacancies. I know there were some concerns by some aldermen. I know that if there's a vacancy in the Board of Mayor and Aldermen, it still called for the aldermen to make the appointment.

Commissioner Soucy stated that she thought we were using the old document.

Chairman Dykstra responded for both, either one, which one do you prefer?

Commissioner Duffy stated that 2.05 of the old charter is 2.08 in the new charter, and there are several sections in between. 2.06 happens to be reverting back to what was in both.

Commissioner Cook stated that the only one I flagged there—it wasn't that I care about it at all—but somebody mentioned at the public hearing should the aldermen have the right to fill school board vacancies or should there be an election. As I understand it, since time immemorial, the aldermen have been able to fill the mayor's job, the school committee job, and the welfare job if they're open. It's only a special election for aldermen. I don't know if anybody else wants to talk about it. I don't care personally but it was raised.

Chairman Dykstra stated that she personally felt there should be a special election. Does anyone have input on how they feel on that?

Commissioner Hirschmann related it's not in the section under discussion. Commissioner Soucy said it was in section 5.12.

Chairman Dykstra stated that when we get to the next meeting, I think it's going to work a little better because we didn't realize that we'd be working with the old so I think it's going to work a little more smoothly. But where we have the time now, we can at least address and go through as much as we can.

Commissioner Soucy noted that the most significant change in 2.05 is the administrative powers are more clearly defined, that the aldermen set policy and the mayor is the administrator of the daily operations. In the new charter, it's on page 7 and it's item B.

Commissioner Duffy stated that it's such a significant area, that it ought to come up for further discussion.

Deputy Clerk Johnson marked Section 2.05, General powers and duties of the mayor, as Item #5 for discussion.

Chairman Dykstra noted that the clerk's office would probably put something together with all these different things, and it'll be a little bit easier to look at with all the ones we want to question.

Commissioner Duffy noted that what was added under section 2.06 was the public comment. It seems to make sense to carry that over but that could be item six.

Section 2.06 Meetings was marked Item #6, to look at the new 2.06 (c).

Commissioner Hirschmann stated that this next one is a big headache. The next one is commissions. Number it.

Deputy Clerk Johnson asked if you wanted to mark the whole article because the departments are broken down in here.

Commissioner Cook stated that several things with departments vary. I'm looking at the old one for the first time in a long time. You've got a list of what the departments are. You've got some common elements of what the power is. You've got how they operate. The theory of the new charter was that we made it clear that department heads didn't have terms for example, that they operated their departments, that their responsibility was to the mayor, and how they were going to operate internally, that they hired their own personnel, and things like that. The old charter was silent on a lot of that stuff, and frankly the concern that we heard from everybody was that a lot of these departments were their own little empires and that there was operational line authority needed to be is the mayor under the supervision of the board of aldermen as the board of directors. I think we ought to compare the new one to the old one to see whether that's good. There was no ideology in this. It was just to try to make it more businesslike.

Commissioner Shaw stated that would be Brad's view. I had thought we had set terms. I don't know how it disappeared in the final writing. The state of New Hampshire has terms for all its department heads. I think it is wrong as you see it in the new one. We actually thought we gave the mayor power, and then with a few changes of words, and I don't know where they came in, it took away the very thing we were trying to establish in the beginning, that the mayor was in charge. Under six point something which we will get to. So I think Brad is incorrect here that we need to put this down as x, y, or z that based on what we should be thinking here, not what Shaw was thinking seven years ago but what Shaw thinks today is that under the platform that we've done, that department heads have terms.

Commissioner Hirschmann noted that we have to label that because there's some dissension amongst us.

Deputy Clerk Johnson stated that if we look at section 3.01, that entails some of what the discussion is. Brad sort of jumped I think into some sections further on, but there are some substantial differences obviously in 3.01 and 3.01 if you will, just in the authoritative portions of it. One says that the board can abolish departments, and the other says that the board can't abolish departments. I guess I'm thinking that you might want to item each of these almost separately and discuss them as an issue because until you determine one issue, you can't really...so maybe I can just do the entire article as item seven and then we can break it down into a, b, c, d and so forth.

Sections 3.01 through 3.06 relating to departments was marked Item #7.

Commissioner Soucy suggested that the commissions be made into item eight because the commission structure in general is a big issue for a number of people here.

Boards and commissions Sections 3.07 through 3.11 was marked item #8.

Chairman Dykstra stated the biggest thing we did on the commissions was to make it more advisory, right Brad?

Commissioner Cook responded, that's exactly what we did.

Commissioner Shaw noted, it was made vanilla.

Commissioner Cook stated that one member of the Charter Commission didn't think we should differentiate between commissions which is why we didn't.

Deputy Clerk Johnson stated that the next breakout is special services departments.

Commissioner Hirschmann stated that we have to discuss the board of assessors because the city is not hiring three assessors at this time. They're actually in conflict of this charter. It says a board of assessors. With only two assessors, they don't necessarily have a board of assessors.

Commissioner Cook stated that the issue came up with the last charter was the assessors are both a department because the assessment department is a department, and the chairman of the board of assessors is a department head, and under the charter they are city officers. We had a long discussion about who should be city officers and in fact the best attendee at the Charter Commission the last time including all the members was one of the assessors because he wanted to make sure what we did with the assessors was consistent with what he wanted to have done with the assessors. The issues, and I know we had a lot of discussion about this, where do they come from; who nominates them because if they're city officers, they're nominated by the aldermen and not by the mayor; who nominates the chairman who becomes a department head and should that be consistent with others; and the basic structure which should there continue to be three assessors which we retain. It merges together and it's one of the places where you have a department head who's also a city officer. Under the new charter, you've got three. You've got the City Clerk who's both, the head assessor which is both, and you have the finance guy. How those all come together, I don't know.

Deputy Clerk Johnson stated that starting with the old charter as a basis, down a little further, you're going to get to city officers. So you can do special services departments as item nine and then you get to assessors, you will have that discussion. You may decide at that point whether or not you want them to be officers and move along.

Commissioner Soucy stated that we have to look at item 3.14, which is a separate public building services department, which no longer exists.

Commissioner Cook stated that we don't have the city coordinator because that was not included in the new charter. We gave the power under the new charter for the aldermen to reorganize by ordinance the various departments. Some of those they've done.

Commissioner Soucy stated right, so what I'm suggesting is we need to revisit this issue to reflect the fact that either we're going to revert back...We need to make it a separate item.

Deputy Clerk Johnson stated that she could mark special services department as item nine but since they are in essence all departments, we may want to refer them back to the same item that the other departments are in, and take all your departments together at one time. So if I do that, I go back to item seven. Seven is departments. So why don't we label special services departments part of item seven? We'll lump them all together. Does that make sense?

Commissioner Pepino stated that on the assessors, it's not a new idea, Mayor Baines is into it now, and what he's looking at, I believe, I'm not sure, is one assessor and a board of assessors, not 50, 60, 70, 80 thousand dollars a year. I think he's looking for one, which we tried to do about ten years ago and get a citizens' board. You have a qualified citizens' board, not like you have now. I can say this. Through the years, I've seen assessors I wouldn't hire and give them five cents because the aldermen put them there. The mayor should have those appointments. I can name three that weren't even qualified...

Chairman Dykstra interjected that we're not going to go into that.

Commissioner Hirschmann stated, well, let's stay on track.

Commissioner Pepino stated that I am, I'm staying on track. The mayor should have these appointments. The mayor can name a better-qualified commissioner than the aldermen.

Commissioner Shaw stated that's not in the charter.

Commissioner Pepino stated he knows it's not in the charter. I'm being truthful.

Commissioner Cook asked, are assessors going to be handled under officers or should they be a separate item? That's the only question.

Chairman Dykstra stated we're going to come back to this after we look at this whole thing during the week.

Special Services Departments, Sections 3.12 through 3.18 were added to Item #7.

Deputy Clerk Johnson noted that brings you right through to department heads. Department heads start with section 3.19.

Commissioner Hirschmann stated that has to be changed. They're not going to be nominated by commissions.

Commissioner Shaw stated well, we don't know yet.

Commissioner Duffy stated that's presumptuous.

Chairman Dykstra stated so you have a concern with that. Department heads shall be nominated by their boards or commissions. That's number nine.

Deputy Clerk Johnson noted that Section 3.19 through 3.21 relating to department heads was marked Item #9.

Commissioner Soucy asked if all the way through 3.21 is item nine.

Commissioner Cook responded, yeah, department heads should be item nine.

Commissioner Shaw said that officers should be number ten.

Deputy Clerk Johnson asked about Commissioner of Welfare, 3.22.

Commissioner Hirschmann stated, I think there will be debate on that issue. I don't know that there'll be change but there'll be debate.

Commissioner Cook stated that should be a flagged item, on whether it should be an elected official.

Chairman Dykstra stated, Carol we're going to do number ten on the department of welfare, whether it's going to be elected or appointed. It's a concern of some of the commissioners, so that will be number ten.

Section 3.22 Department of welfare was marked Item #10.

Chairman Dykstra asked City Clerk under city officers? Any input?

Commissioner Hirschmann stated that he had a point on that. Under the new charter, the City Solicitor is not an officer of the city, and I think he really should be.

Deputy Clerk Johnson stated that well, he is here.

Commissioner Hirschmann stated that whether he wants to be one or not. As an alderman, when I was an alderman, under the new charter, the solicitor reports to the mayor. Under the old charter, he reports to the Board of Mayor and Aldermen, and that's the way it should be. There should be none of this hiding under the mayor's skirt stuff any more. Item 11.

Chairman Dykstra asked if we can get any input on the preference...we have the City Solicitor here. You don't care to speak. Okay.

Mssr. Arnold stated, I don't think there is a real preference.

Chairman Dykstra stated I'm not putting you on the spot. If you can't answer it, that's okay with me. That's fine.

Deputy Clerk Johnson stated that number ten was the Commissioner of Welfare. The question is do you want to take all the city officers as number eleven or do you want to accept anything that's here?

Commissioner Soucy stated I think we have to take all of it. It includes the city coordinator, which is a position that is no longer in the charter.

The Clerk marked City Officers (Section 3.23 through Section 3.30) Item #11.

Chairman Dykstra stated, how about the term of office and removal for cause? Do we want to address any of that?

Commissioner Pepino asked what is cause. What is cause? Tell me what cause is.

Commissioner Cook stated that cause is what nine aldermen find it to be.

Commissioner Shaw stated (that cause could be) I don't like him, parts his hair wrong.

Chairman Dykstra stated that we (the previous Charter Commission) had a big discussion on that. I don't know where it got us to.

Commissioner Hirschmann stated that I don't think we should have terms anyway, so...

Commissioner Cook stated the difference between the two charters is there used to be terms. We said there shouldn't be terms. Interestingly, when the department heads came and they didn't do what Leo fears they do in Concord, they actually came and talked about how the charter affected the operations of their departments and were very helpful. Most of them came and in essence said we sort of like terms. A couple of them came and said, "Hey, if I'm not doing my job, get rid of me." We did away with terms. The compromise was a mayor who comes in and just wants to clean house, and there are a lot of good people in the place, because he just got elected a la the Mayor of Philadelphia gets elected, every department head is gone.

Commissioners Shaw and Pepino interjected that they like that.

Commissioner Cook stated that was not the opinion of the majority of the [former] Charter Commission, so we put in that his termination of an existing department head had to be ratified by nine of the aldermen. That was the decision that was made. Whether it was right, wrong or indifferent, I don't think any department head has been removed under the new charter. I think they went from having six year terms to lifetime terms is probably what happened, but whether that's good, bad, or indifferent, I don't know, but that's the difference between the two charters.

Deputy Clerk Johnson stated that you could put successors as part of the officers and leave it at that for now. I believe it's eleven. So this one's going to be part of eleven. And appointments and removals...all under eleven.

Commissioner Cook stated that to move back to successors for a moment, there's a new provision in the new charter that is different from almost every other place in New Hampshire, that there are no holdovers. Because one of the issues that arose under the old charter and in state government and every other place is if you can't get a bunch of people to confirm the successor, the prior person is in essence in office for life. The Charter Commission said that's not going to happen. The office is vacant. The mayor has to submit a nomination within a period of time or

the aldermen can fill it, but the holdover thing, when the term is up, the term is up. That's in the new charter, and that's something, when we're talking about that, we should see whether we like it or don't like it.

Chairman Dykstra stated that she still likes that. It's something for discussion. That's all going to be part of eleven...

Successors, Appointments and Removals, Sections 3.31 through 3.33 were added to Item #11. #11 now included Sections 3.23 through 3.33.

Chairman Dykstra moved to School and school committee.

Commissioner Tessier stated number 12.

Article IV. Schools and School Committee, Sections 4.01 through 4.03 were marked Item #12.

Chairman Dykstra asked if there was any discussion, other than just numbering it.

Commissioner Tessier stated well, there's a lot of discussion with school issues because with the court orders that have come down, I think that a lot of the language in here has to be changed.

Commissioner Cook stated that this language in the old charter, number four, is the same as the language in the new charter, number four, because what we did was, we came up with a new article four. We got our heads bashed in after the initial draft came out, and the majority of the Charter Commission, which Shaw and Cook opposed, voted to go back to the old language.

Commissioner Hirschmann stated that there was an amendment adopted to the charter.

Commissioner Cook stated yes, correct. But if you're using this as your platform, you've got three different things to be looking at. You've got this to look at. You've got the new one to look at which is the same as this, and then you've got the amendment which I think came out with the stuff you sent us originally, the amendments to the charters, that initial set of materials.

Commissioner Hirschmann stated that amendment was important.

Commissioner Cook stated that the amendment was then struck down by the courts, and there's a bill in the legislature.

Commissioner Hirschmann stated that it's still in there.

Commissioner Cook stated that we've got to figure out where we are is the point. Yes, it's in that book (the red 2002-2003 city government book which Commissioner Soucy pointed out was printed prior to the court decision).

Chairman Dykstra stated that we're going to mark this as number 12.

Article IV. Schools and School Committee was marked Item #12.

Deputy Clerk Johnson stated that Article V is Elections. Do you break it into sections?

Commissioner Soucy stated that we should just make Australian ballot 13.

Chairman Dykstra stated that partisan/non-partisan is going to be an issue between this commission.

Section 5.01 Partisan ballot system (Australian Ballot) was marked Item #13.

It was concurred that the subheading Terms and Definitions (Sections 5.02 through 5.09) would be marked Item #14.

Commissioner Cook stated that we need two things in the election stuff. Obviously what decision we make on partisan and non-partisan will affect a lot of this stuff, but also the City Clerk's office that runs the elections can tell us how we're doing. A lot of this stuff we got in the new charter last time was because we had the City Clerk come in and say, "Here's the problems we have here." It wasn't particularly even policy-oriented. It was just how to make the elections work right. We're going to hear from the departments. That will be very helpful to have them say...because the City Clerk has already said, for example, if you're going to keep non-partisans don't have primaries. Whether we agree with that or not, that's input for us.

Commissioner Pepino stated that we're the only city in the state that has primaries in non-partisan elections.

Chairman Dykstra stated that we'll get input from the clerk's office on that.

For clarification, Deputy Clerk Johnson suggested that we do #13 as the Australian Ballot; #14 can take everything from 5.02 right through to 5.12 including from page 1165 on the bottom to 1168 at the top. Deputy Clerk Johnson

noted it's all related and it depends on what you decide on one thing as to what happens with the next. Checklists and voter registrations I just felt should be separate because Board of Registrars is a separate entity, and there are state laws that are applicable. The federal law that was just passed is going to affect it. We're still conferring because there was a whole workshop in Washington about that stuff and we're working with the Secretary of State because under the law we're part of that process. There may not be anything but I would prefer to have it separated out.

Item #14 was so marked to include Section 5.02 through Section 5.12. Item #15 was marked as Sections 5.13 through 5.17.

Chairman Dykstra stated that anything that really affects the clerk's office, we would appreciate that info. That's going to be a big help to us.

Deputy Clerk Johnson stated that maybe your qualifications for office, nobody has an issue with and if not, maybe we don't need an item number for that one. 5.18 is citizenship.

Section 5.18 relating to citizenship was accepted as okay.

Commissioner Cook referenced Section 5.19, Domicile stating if the City Solicitor gave an opinion on people from tuition towns serving on subcommittees of the board of school committee, that said because of this section or its successor section, they couldn't serve on subcommittees even though everything they do goes to the full board on which there wouldn't be any, I know the school board is going to bring that question here to the charter commission when you hear from them.

Deputy Clerk Johnson stated that domicile should be a separate issue perhaps because the state law on that for election purposes is in the process of change.

Chairman Dykstra stated that we'll wait till that comes down.

Deputy Clerk Johnson marked Section 5.19 Domicile as Item #16 and stated that at some point, you may want to have the City Solicitor review that issue.

Chairman Dykstra asked if there was a problem with registered voter, mayor and Commissioner of Welfare, and their qualifications. Must be a registered voter within a ward. I mean, is there a problem at all? Does anybody have a problem with the three-year residency for Commissioner of Welfare?

Commissioner Duffy asked why does it matter that the commissioner has three years of residency.

Commissioner Soucy noted that in the current charter, it's one year.

Commissioner Duffy stated he had a problem with it.

Section 5.20 Registered voter was accepted as okay.

Section 5.21 Mayor and Commissioner of Welfare was marked as item #17.

Nominations (Sections 5.22 –5.24), party candidate, school committee candidate, nonparty candidate was marked as item #18.

Commissioner Hirschmann stated that right now, there aren't any party candidates. We might want to have them.

Commissioner Pepino interjected, make them all partisan.

Chairman Dykstra, under the section of primary, stated that the aldermen at large decision and whether it's going to be partisan or non-partisan is certainly going to change the whole scope of a lot of this. So what's the will of the commission on this here?

Commissioner Cook stated that the primary is going to be affected by what we do with the other things.

Deputy Clerk Johnson stated that it's part of nominations, and we will leave that as part of item 18.

Sections 5.25 and 5.26 relating to primary was so marked with item #18.

Deputy Clerk Johnson noted Post election Procedure, Preservation of the ballot checklist, Declarations of election results, I think that'll just be a matter of what the clerk's office probably decides. We can review it. If we have a problem, we can bring it to you. I think this is mirroring what the state law was. We just need to review that. We can put it as item 19 and ask for a report from the clerk on it if you want. And that could include your recounts as well I presume. The reports and things should be a separate number.

Commissioner Soucy stated, definitely.

Sections 5.27 through 5.33 relating to Post Election Procedures and Recounts were marked Item #19. Section 5.34 Political campaign contributions and expenditures (Reports) was marked as Item #20.

Chairman Dykstra stated that we're going to get input from the clerk's office on that whereas they deal with those all the time. There must have been some revisions on applicability of statutes, certainly from 1983.

Deputy Clerk Johnson stated that what this is is determining when, for instance, if the clerk is making a ruling in some instances, what we would do is make a ruling based and if we don't have something it reverts back to state law. Those kinds of issues and the form and the ballots are all sort of together. I think it should be a separate item.

Chairman Dykstra asked Commissioner Cook if we addressed that in the new charter or made the changes updated according to the law. Now we have to update it again.

Commissioner Cook responded we have to look at this one now and then the new one to make sure they're legal. We didn't make any structural changes, but you got to have a board of recount. We just updated it.

Deputy Clerk Johnson stated that this also talks about the arrangement of candidates on the ballot and that's really a commission policy decision and those kinds of things.

Chairman Dykstra asked if it makes a difference if it's partisan or non-partisan.

Deputy Clerk Johnson responded that it makes a difference as to whether or not you're going to tell us to put them in alphabetical order. I would say applicability of statutes; we'll just mark that whole section as item 21.

Sections 5.35 through 5.37 relating to applicability of statutes – election materials were so marked as Item #21.

Miscellaneous was then addressed.

Commissioner Soucy interjected that has to be another item.

Commissioner Cook stated that he agreed with Commissioner Shaw that having the boundaries, there was a reason why we did it, and I think somebody told us we had to do it. No I didn't want to put those in. I thought it was a waste of paper.

Deputy Clerk Johnson stated that there was a suggestion to put them in so that people could read exactly what the ward boundaries were in the charter. I took miscellaneous which is both of those items (wards and filling vacancies by party committee) as item 22.

Sections 5.38 and 5.29 relating to Wards and Filling vacancies by party committee was marked Item #22.

Commissioner Hirschmann stated that we need to number budgets, whether there's a fallback budget or not. The whole article.

Deputy Clerk Johnson marked Article VI. Budgets and Appropriations (Sections 6.01 through 6.12) as Item #23.

Commissioner Pepino stated that if you want to go back to the budgets, there is a budget process, an RSA, it's 10 to 12 pages. Most of the towns have adopted it. There's a little bit in there for the municipalities. I would suggest we get that--I

just found out about it today—and read it and see what’s in there for the cities as far as bond issues and different processes. There’s some of that stuff in there.

Commissioner Cook interjected that, yes, there is a Municipal Budget Act.

Commissioner Hirschmann asked if it is enabling legislation.

Commissioner Cook responded that it’s more than enabling legislation because it sets minimum standards of how you have to act and what you have to do, so it’s not just enabling.

Commissioner Hirschmann stated that we should have our research team request that.

Chairman Dykstra stated that we need to have a motion for that.

Deputy Clerk Johnson stated that at the end of the meeting, she was going to ask for some direction on specifics.

Chairman Dykstra stated that if there’s anything else you want to look at, we’ll take some motions in other business. So how far did that go into? What page are we on here?

Deputy Clerk Johnson stated that you’re on page 1181. Article VII Procurement Procedures, becomes Item #24.

Chairman Dykstra noted that Commissioner Duffy and others wanted some discussion on procurement code.

Commissioner Duffy stated that the question on ethics, which is 7.09, came up for issues, so that should be a separate item.

Chairman Dykstra noted that ethics certainly will be. We do have an ethics conduct board also that we had in the new charter. You might want to incorporate or change or do something more. That’s up to you. Ethics would be item 25.

Section 7.09 Ethics was noted as Item #25. Section 7.10 was placed with Item #24.

Deputy Clerk Johnson asked that if, under general provisions, everyone was in agreement with section 8.01, establishment of rules, on the bottom of page 1185.

Commissioner Cook stated that the old charter and the new charter were the same.

Chairman Dykstra noted that it's okay to leave that alone.

Commissioner Pepino stated that 8.01; they never followed through for 16 years.

Commissioner Hirschmann suggested that you might want to have a section that says policy manual.

Chairman Dykstra stated that we addressed it in the new charter but it still has never happened. When I was on the board of aldermen, it was supposed to happen, and it never did. They're supposed to set up a manual, have a policy, all departments, and it's never happened.

Commissioner Cook interjected that there is a rules book.

Chairman Dykstra stated that each department is supposed to have a manual or something. It was put in our charter in the last one we just did, and it still hasn't happened. It never does, so they're in violation of the charter. So we can look at that anyway.

Deputy Clerk Johnson stated that we have that marked as the language as being okay. So I guess it's an enforcement issue...Is statement of policy an issue or not an issue?

Section 8.01 Establishment of rules was noted as okay.

Commissioner Duffy stated that it needs to be looked at by somebody.

Commissioner Cook stated that he believed the old charter and the new charter, the difference was we have an a, b, and c because there are three things referenced in there but it's exactly the same language. We ought to just confirm that.

Deputy Clerk Johnson noted that's a compare language question. I'm going to mark it as 26 just so that it doesn't get overlooked. And that might be a quick one to review at some point, on a good night.

Section 8.02 Statements of policy was marked Item #26.

Chairman Dykstra referenced charter periodic review, not less than once every ten years...

Commissioner Cook stated that it's state statute.

Deputy Clerk Johnson stated that yes, it mirrors the state.

Commissioner Shaw pointed out that the old charter says you could appoint five citizens that would only review, not revise.

Commissioner Cook noted that state law has changed to nine.

Commissioner Duffy asked that we just make it 27 and continue

Section 8.03 Periodic review was marked Item #27.

Chairman Dykstra stated that we addressed compensation with a salary increase of \$68,000.

Commissioner Shaw stated that's in the new charter. There's nothing in the old charter.

Commissioner Dykstra stated that some people feel that we probably shouldn't put in a dollar amount. Some people feel it should be more. Some people...

Section 8.04 Compensation of officials was marked as Item #28.

Chairman Dykstra asked whether something about incompatibility of offices was addressed on the state level, people running for Congress and being state reps. I don't know if that would affect us here. The only thing I had a problem with some areas here is that some people could run for two offices and if they lost one, they could basically take the other one, and then you'd have to pay for a new election.

Commissioner Pepino asked about a city employee that runs for office. He wins, retires. He loses, goes back to work.

Commissioner Cook stated that it doesn't prohibit people from running. What it says is that nobody can hold an office because if somebody wins, then they have to make a decision. If they lose, they can't hold the office so it doesn't matter. There was a big discussion about can you run for office. Anybody can run for office.

Commissioner Hirschmann interjected that's not what this says.

Chairman Dykstra stated that we did something with the schools. That's right. Dolman agreed to it, that he couldn't run.

Deputy Clerk Johnson stated Dolman was a City employee. He was a School District employee.

Chairman Dykstra asked where would that come up.

Deputy Clerk Johnson answered in here because it says no compensated City employee. In Dolman's instance he was a School District employee according to the courts so he was there for...

Chairman Dykstra interjected we did change it and he agreed to it.

Commissioner Hirschmann asked that the issue be marked Item #29.

Deputy Clerk Johnson answered 29 sounds like a plan.

Commissioner Dykstra stated it sounds like a discussion.

Chairman Hirschmann stated the new language seems more fitting in that case.

Deputy Clerk Johnson noted so compare languages again.

Commissioner Cook stated in 8.06, the only thing that got added in the new one was that it be read consistently with boards, commissions, and departments consistent with state law. That's probably redundant language but we had a city library trustee on the Charter Commission. And I think that's why there was a lot of discussion about it.

Deputy Clerk Johnson stated that it also made it clearer.

Commissioner Cook stated that if we're starting with the old one, the old one didn't have the additional language in it. So at least from a language read perspective, we might want to consider whether we retain it.

Deputy Clerk Johnson stated that it mirrors statute, and that's really what you're saying, that the statute takes precedence in either instance. You can either put it as item number 30 or you can say you want to accept the new language because it mirrors the state anyway.

Commissioner Hirschmann stated that I'd say 30 just to keep consistent.

Section 8.06 Contract with athenaeum was marked Item #30.

Commissioner Duffy stated that local initiative was broken into five sub-paragraphs.

Commissioner Soucy stated that we could make that 31 and compare the language. It appears to be the same.

Section 8.07 Initiative was so marked Item #31.

Deputy Clerk Johnson asked if 8.08 (oaths) was okay.

Commissioner Duffy stated that the language in the new one is probably a little more...

Commissioner Hirschmann noted that it tells you the dates. It says Tuesday after the first Monday.

Deputy Clerk Johnson responded that there was a reason for that. Leo was going to address the commission actually, but the new language would allow you not to have to do it on New Years Day. There's an ordinance that says we would have had to, and that ordinance didn't get changed. We can get the ordinance changed if the new language prevails, but we've done nothing because we're waiting to see what you people do. So do you want to item that as a number?

Commissioner Hirschmann responded yes, 32.

Section 8.08 Oaths was marked Item #32.

Chairman Dykstra stated all right, and 33, employee retirement systems.

Deputy Clerk Johnson stated the retirement system was in the old charter. It was removed in the new charter by reference to protect people that weren't in the system.

Commissioner Pepino stated that he would eliminate that whole paragraph.

Commissioner Hirschmann stated that it's in here. There's a section in the new charter.

Deputy Clerk Johnson stated that the new charter is much different than the old.

Commissioner Cook stated that we checked with counsel for the retirement system when we did the charter because the old charter—what had happened was state enabling legislation on retirement systems and federal law had changed since the

charter. We went to counsel for the retirement system and said what should the charter say. Commissioner Pepino raises a good question, which is, does the retirement system have to be in the charter at all, which I don't have the answer to. But if it's going to be in there, what we did was get the language...I think it's in there because the employees wanted to make sure that their retirement rights were in the Constitution of the city and couldn't be messed with.

Commissioner Pepino stated that they didn't trust the city.

Commissioner Cook responded, oh, I don't think so.

Commissioner Pepino stated, I know so. The retirement system right now in the city, they're thinking very seriously of transferring the whole system to Concord because I put legislation in.

Chairman Dykstra noted that we're going to number that 33, retirement. That's going to include your severability, your sick leave, all under 33.

Deputy Clerk Johnson stated that 8.13, applicability to the city the special acts, reference state law. I don't think any changes were made from the old to the new laws.

Commissioner Cook stated that the only thing that we changed was we took out the sentence "laws 1965, chapter 497, section 3 is hereby repealed" because that had long ago become irrelevant.

Sections 8.09 through 8.12 were marked Item #33.

Chairman Dykstra stated that we certainly have to number transition provisions cause the dates in there are a little old.

Commissioner Cook stated that we added a line on veterans recognition which wasn't in the old one cause we had a strong advocate for veterans organizations on the Charter Commission. We had a charter enforcement provision that made it clear that this thing was supposed to be enforced and how it was supposed to be enforced because we thought the aldermen didn't have teeth on that subject.

Commissioner Hirschmann stated those need to be included.

Deputy Clerk Johnson stated that there is a difference in language in 8.13, one to the other. I don't know if you want to just strike out that second sentence now and say okay. If you do, then you can have that one done.

Commissioner Cook stated that it was so long ago repealed .

Chairman Dykstra stated let's take care of that.

Deputy Johnson stated so we'll do that, and so that one will be okay.

Section 8.13 Applicability to the city was noted as okay with the deletion of the last sentence which was no longer applicable.

Deputy Clerk Johnson noted transition provisions will be item 34. All of it is going to have to change anyway.

Article IX Transition Provisions was marked Item #34.

Commissioner Hirschmann asked if we need attainment of political balance and labor representation.

Deputy Clerk Johnson responded it's all part of the portion. If we go after the end of Section 9.09 vacancies, which is still part of your transition, there were two sections that they were just talking about. One was charter enforcement. So we'll say that will be item 35. We don't want to forget anything.

Item #35 was noted as Charter Enforcement.

Commissioner Cook asked if we've gotten standards of conduct some place because we moved it around. I think you got it before.

Commissioner Soucy asked about a section on ethics.

Deputy Clerk Johnson responded that there's ethics in the old one, which you're going to discuss. It's an item.

Commissioner Hirschmann stated that there are three items, veteran's recognition, public comment, and charter enforcement.

Deputy Clerk Johnson responded that public comment was addressed earlier. It's in something else. So veterans and charter enforcement are those the only two, Brad, we're actually adding?

Commissioner Cook stated yes. There was an 8.14, which was public comment boards and commissions. "All boards, commissions, authorities, and committees shall provide for a period of public comment". Everybody had to have a public comment.

Deputy Clerk Johnson stated that's different than what's in for the board already. That's why I just wanted to make a notation for the different things.

Charter Enforcement was marked Item #35, Veteran's Issues #36, and Public comments (8.14 in new charter) #37.

Chairman Dykstra stated that now we've got this document here on the old charter that we are working on. We've all got copies of the old charter and the new charter.

Commissioner Cook interjected that there are other items that aren't in the old charter that I think people want to add to the list of topics.

Chairman Dykstra stated that right now, we have basically gone through the things that we have to look at which is basically almost everything.

Commissioner Hirschmann questioned; we're not done, are we.

Chairman Dykstra responded no, no, no. The thing is that if there's anything here that any commissioner wants after going through this, that's not even actually in this old charter because we're working with the old charter, so if there's anything that possibly is in the new charter or something you might be interested that you want addressed in this charter and need to have research or anything, now is the time to start on something like that.

Commissioner Pepino questioned section 9.03. Right in the middle, it says "require political balance". You have a commission of three Democrats and two Republicans; the balance is there. The Democrat leaves, leaves two Republicans and two Democrats. Another Democrat comes in. Somebody changes to an independent. One person changes to an independent so you can't allow that person in. He's the wrong party. We don't need him any more. We got three Democrats, so we got two Republicans or whatever it is. They change to an independent, then zip, the guy is gone. They set the standards. I think you were there then when that came up, and I made that very clear. I said we appoint people to boards and commissions and by them changing parties, they're controlling who comes on, and the aldermen ignored it completely. And I'll tell you who the guy that was that they stuck it to—me.

Commissioner Duffy stated that we already have that under review.

Commissioner Cook asked if that one had already been flagged.

Chairman Dykstra responded definitely. That's in number 34. It's all going in together.

Commissioner Hirschmann asked about vacancies, way at the end.

Deputy Clerk Johnson responded that vacancies was part of the transition. It's all part of transition, so it's all part of item 34.

Commissioner Tessier asked to have the three items for discussion repeated.

Deputy Clerk Johnson responded charter enforcement, veterans, and then there was a new section on public comment that included boards and commissions. Now can I ask questions?

Chairman Dykstra responded certainly, you can ask all the questions that you want.

Deputy Clerk Johnson stated that there were a couple of issues that came up, and one of the things that the commission decided early on was that our office was not going to do research unless there was a vote of the commission. Before I send my staff off trying to do things, I want a clear understanding of what direction I'm sending my staff off into, other than doing the minutes, which is part of what we already agreed to do. One was, there was a question about the Municipal Budget Act and I guess my question is do you want us to research that or anything related and submit those copies to the Commission.

Commissioner Cook responded that it seems to me, we had this discussion about what we were going to have researched the last time. We are concerned all of us I know on the cost of what it's going to be to do the research, especially since we're using the two city offices this time instead of special independent researchers. Some questions I don't think you can ask except broadly. If there's a question that says what does the Municipal Budget Act say we have to have in the charter and how do these provisions comply with that, that's a fairly specific question. The objection I had the last time to sending the solicitor's office out on a couple of different research things was—you have to know this from the person who gets asked to research things a lot, namely clients call up. If a client calls up and says is it legal to do this thing, that's fine. If a client calls up and says what's the law on such and such a subject in the world, it's kind of an unending, undefined topic. So when we consider what we want to have researched—and this is just a general statement; this doesn't address your question—when we ask people to research things, I think we're doing ourselves and both offices which are going to be doing the research to ask them as specific a question as we have. If somebody says, "I have a proposal for a tax cap, and this is what tax cap ought to say," then the

question goes to the solicitor, “Is it legal to have this thing?” Maybe it’s a good question, “Are tax caps legal all together?” because maybe there’s any easy answer to that. I don’t know because I’m not an expert on that. I’m just saying to you before we send these people out to do research, let’s make sure the questions we’ve asked are as specific as possible so we haven’t given them kind of the unending question that’s going to take forever.

Commissioner Shaw stated that he disagrees with Commissioner Cook on this issue. If I have a right to make a motion, as you have ruled earlier in the meeting, and I make a motion that we have a tax cap, and then I get by luck somebody to second and then we have discussion which goes on and on and on and waste our time because it’s my personal preference to have a tax cap, I think we’ve wasted the committee’s time. I don’t mind wasting the clerk’s time or the solicitor’s time, but I hate to waste my time. And I think it’s important Commissioner Cook to understand this. This way we eliminate from procedure those things that really are illegal to begin with.

Commissioner Cook responded I’m not against that.

Commissioner Shaw stated that, well, you were at the last meeting that we had. The vote was 4-4, a tie when such a simple thing, to ask a simple question, does state law deny cities the right to have a tax cap. That’s what the question was to be. Does it deny us the right?

Commissioner Cook stated that if that’s the question, I would vote for that.

Commissioner Shaw stated that last time it was defeated.

Chairman Dykstra stated that last time it was just to ask the City Solicitor an opinion on whether that was legal, and the ones that did vote against it felt that it premature. But I told you at the beginning of this, we all have a right to vote at any meeting at any time, and that’s the way it’s going to have to be.

Commissioner Duffy stated that he’d like to go back to what Carol had offered at the beginning. It wasn’t research. It was a matter of getting a copy of the Municipal Ballot Laws what I understand. That’s simple enough, is it not?

Deputy Clerk Johnson restated her question; do you want a copy of the Municipal Budget Act?

Commissioner Duffy stated that the answer to that is yes.

Commissioner Shaw moved to ask the Clerk's office to provide a copy of the Municipal Budget Act. Commissioner Duffy seconded the motion. The motion carried.

Commissioner Pepino stated that the finance department upstairs has had a tax cap up there, in 1979 when the aldermen rejected it, and it's still sitting up there. The week after I got elected, I called up there, before this committee was formed, and I asked them if they'd start working on the tax cap, and one of them said they'd look it over. Then when I read in the minutes, is it legal, there's one sitting right in city hall, for four percent.

Chairman Dykstra stated that the proper way to do this would be to make a motion. If you're not, Commissioner Shaw, would you like to make a motion?

Commissioner Shaw moved to refer the allowability in the State of New Hampshire for municipalities to have a tax cap. Commissioner Pepino duly seconded the motion.

Commissioner Hirschmann stated we're referring this to research office.

Chairman Dykstra replied referring it to the City Clerk's Office to research.

Commissioner Hirschmann asked why aren't we going legal with this question?

Deputy Clerk Johnson replied the Clerk's is going to go to legal.

Commissioner Hirschmann stated it's on the floor, what's the difference?

Chairman Dykstra replied the City Clerk has the authority to ask the City Solicitor for an opinion on that. We were denied that right for an opinion at the last meeting. Now, he has asked for research which is his right to ask for research, it goes to the City Clerk, the City Clerk can utilize anyone that she wants...

Commissioner Hirschmann stated but they want a legal opinion.

Chairman Dykstra stated we will get that from them, yes, we will get everything from them; that would be part of the research.

Commissioner Hirschmann stated well I'm okay with that, I just want to make sure it's legal.

Chairman Dykstra replied yes we will not go any further if it is not, the research will include the legality of this correct, Carol?

Deputy Clerk Johnson replied well, I was going to follow-up with a question. He's saying research the allowability in this State.

Commissioner Tessier asked is it allowable or legal, there's a difference. Legal should be in the motion.

Chairman Dykstra stated if you want to amend it to legal...Commissioner Shaw will you amend your motion to legal.

Commissioner Shaw moved to amend his motion to include the word "legal".

Chairman Dykstra stated we had a motion, we had a second on the research and the legality of a tax cap and the research basically for a tax cap, that is basically the bottom line. We are in a discussion mode, we've had a discussion on this...do you want to discuss the discussion on this or do you want to move the question.

Deputy Clerk Johnson asked who made the second.

Chairman Dykstra stated he (Commissioner Pepino) seconded the motion.

Commissioner Pepino stated I have a question. A lot of this research we will be referring to the City Solicitor, who else can do...I research things every day...you were a representative you researched everyday, can this be done?

Commissioner Hirschmann stated there's a technical difference, Madame Chairman, I respect your opinion but a researcher may not pick up what the Solicitor picks up.

Commissioner Pepino stated I said "most", most is the research we're talking about here.

Deputy Clerk Johnson stated the motion on the floor is Commissioner Shaw, seconded by Commissioner Pepino.

Chairman Dykstra called for a vote on the motion on the floor. There being none opposed, the motion carried.

Commissioner Hirschmann stated that it was the same question I asked last week.

Chairman Dykstra stated there were a few more things the City Clerk wants to address.

Deputy Clerk Johnson stated that an issue that came up this evening was on the initiatives for ballot questions, whether it could be binding or not. My question is does the Commission want us to research that?

Commissioner Pepino stated yes, and moved to have the Clerk research whether initiatives for ballot questions could be made binding. Commissioner Shaw duly seconded the motion.

Commissioner Hirschmann stated that we numbered everything. Why are we doing that now?

Deputy Clerk Johnson responded so that you'll have the information so you'll be able to decide what you want to do.

Commissioner Shaw stated he doesn't think it is allowed.

The Commission unanimously approved the motion. Chairman Dykstra stated that we will be looking at a binding referendum.

Deputy Clerk Johnson stated that there were a few items in here, particularly with elections and so forth, that you were asking the clerk's office to review for you, and I'm just clarifying that it's all right to have our staff working on some of that on behalf of the commission and submitting you information.

Commissioner Soucy moved that the election provisions be part of a report from the City Clerk's office and that research be part of that. Commissioner Soucy noting she believed that it was the intent of the commission to hear from the City Clerk during the department meeting.

Deputy Clerk Johnson interjected that he was starting to prepare based on the new charter and if you go back to the old charter, he may want to be reversing and looking at some other state laws and those kinds of things. That's all I'm saying. Some of it would be internally our own office but I may need to use the commission's researcher to give you the information you're looking for. I don't want anybody questioning anything we're doing.

Commissioner Soucy restated her motion that as part of the City Clerk's presentation to the Commission, he include a report. Commissioner Cook duly seconded the motion. The motion carried with none recorded in opposition.

Commissioner Duffy questioned Deputy Clerk Johnson about what kind of notice went out about next week's meeting. What kind of notice went out and to whom was it addressed? Next week is department heads, commissioners, and officers.

Deputy Clerk Johnson responded we sent a notice out to the department heads. And I am actually going to follow it up with another one based on what happened this evening here. We did sent out a notice to every department head, every city officer, and to every member personally of any commission or authority within the city.

Commissioner Duffy asked, every member, not just the chair.

Deputy Clerk Johnson responded right, each member individually. It took some phone calling and getting addresses and those kinds of things but yes we've notified every single one.

Commissioner Hirschmann asked how many people is that, 50?

Deputy Clerk Johnson referred the question to Steve Vaillancourt who actually worked on that. He responded more than a hundred.

Chairman Dykstra stated that we won't get them all, but at least they're informed.

Commissioner Duffy asked if there was a schedule so that they have a sense about when they can be expected to be heard, so that everyone's going to show up at the same time. Is that the plan?

Deputy Clerk Johnson stated that they've been informed that the Commission hearing is at 5 o'clock. I don't know that you can schedule because you're dealing with individuals, but our thought process will be to have similar to public participation we'll have a sign up there. As people come in, they can sign up, so we'll know who's there and what they're representing. We may try and lump some of it together. For instance, if every member of the airport authority was there, we might try and get them all at the same time, but we'll see how we can deal with that. What we did do in there is we stated that it was our understanding that you had wanted them to come and discuss with you the current charter and how it's working or not working for them, so I am now going to follow that up with an additional notice to them that if there are any provisions of the old charter, they may want to comment on as well because obviously that's what you're using as a base. They may want to make comment on that as well. There may be something that's in the new charter that they otherwise would think is still going to be there that may not be there.

Commissioner Duffy stated that's going to change the tone of these comments significantly, if in fact the department heads and commissioners are going to be notified that they're really going to be commenting on whether they prefer the old charter to the new charter.

Deputy Clerk Johnson responded that wasn't her intent, stating I guess that's what we need clarification on, what you really want. The statement in here is saying, "The Charter Commission is interested in hearing from those most closely involved with city government about the effectiveness of the current charter provisions. Any comments and suggestions regarding proposed changes will be welcomed at this hearing." That's how we stated it initially.

Commissioner Cook stated that's fine. They're going to talk about how it works.

Chairman Dykstra stated that they might even come in with their own suggestions for changes in the charter themselves, so that's not a problem. One other thing I wanted to clarify. I remember back when we had the last hearings, we had hearings of department heads and things come in, we as commissioners asked questions. Remember when they came in and we kind of asked them questions. I think that probably makes a good thing. I don't know if that's what this commission wants to do because I think that did work out very well last time. So that will be allowable. It will give us more information and be more helpful to us.

Deputy Clerk Johnson stated that we termed it a hearing rather than a public hearing, and that was basically our purpose. It will be in the Aldermanic Chambers.

Commissioner Hirschmann stated that last night the aldermen voted on our budget. All I'm asking is now that we have a budget, when the secretary-clerk gives us minutes, could we somehow get a drawdown of how we're going with our funds.

Deputy Clerk Johnson stated that she wanted to talk about the budget for just a moment. I just did a brief analysis to this point as to where we were at, and of course, we've done no research, officially for the commission, and I'm not including that as a chargeoff. It's just the mailings, the notices, our time to cover meetings, and the minutes, and it's probably \$1200. Our office anticipates that we will expend far beyond what's been appropriated. What I asked our financial person today—even if was to charge back every minute I was here and that kind of stuff—is to plan that we will provide to the commission because it's set aside in an account, we're not going to be drawing off of it all the time, but we will provide to the commission a financial breakdown of the expenditures that we would see against the account. That will include the time, the research person's time, or one of the administrative assistant's time or whether it's a legal notice that we've paid

for. I've also asked her to break that out differently for people like Leo and myself so that we're showing what's being expended by the office in terms of time, but not that we are necessarily charging back. I could probably charge off the \$14,000 or whatever that's our portion of that budget, you know, inside of four weeks, but that's not the purpose of having your budget. The idea is for us to be able to pay for physical time that's set aside that people aren't doing other things other than we see the administrative staff such as Leo and myself doing. So I asked her to break those out differently. They have transferred that into an account. It will be accessed by our department. No bills to outside legal services certainly will be paid out of that account unless I get a separate motion to do so by the commission. I will not have her charge into that account until such time as the commission has approved the financial report that we provide, so that you'll know what's coming out of there at any given time.

Commissioner Shaw stated that now that we're meeting weekly, in regard to minutes, it puts a tremendous pressure on the City Clerk's office to get that into the mail to us at a terrible expense. I think we should pick the minutes up. I see no reason to pay two dollars and something cents to send it out, mainly because I don't read it anyway. It's expensive to do that each time. It costs money and it costs staff time and must be done quickly in order for us to reach Egypt before next Wednesday.

Deputy Clerk Johnson explained that on Friday afternoon usually, we put large packages together for the Board of Mayor and Aldermen.

Commissioner Soucy suggested that those who have e-mail, the clerk's office could get our e-mail addresses. They could then e-mail the information to us and we could print it out if we chose to, and it would save on the postage expense and get to us quickly.

Commissioners Dykstra and Hirschmann stated that they would just pick theirs up.

Deputy Clerk Johnson stated that she could e-mail for those with an e-mail address and for those who want to pick up, you could check on Friday.

Commissioner Duffy moved to adjourn, duly seconded by Commissioner Cook, the meeting was adjourned.

Respectfully submitted,

Deputy City Clerk